**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE M.N.KRISHNAN**

**MONDAY, THE 1ST OCTOBER 2007 / 9TH ASWINA 1929**

**WP(C).No. 29002 of 2007(C)**
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**LAR.139/2001 of ADDL.SUB COURT,KOLLAM**
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**PETITIONER:**
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**AISHA, ANIL MANDIRAM,**
**PONMANA P.O., PONMANA VILLAGE,**
**KARUNAGAPPALLY.**

**BY ADV. SRI.N.VIMALAN**

**RESPONDENTS:**
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**STATE OF KERALA, REPRESENTED BY**
**THE DISTRICT COLLECTOR,**
**KOLLAM.**

**BY GOVERNMENT PLEADER SHYSON P. MANGUZHA**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**M.N. KRISHNAN, J.**

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**W.P.C. NO. 29002 OF 2007**

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**Dated this the 1st day of October, 2007.**

**J U D G M E N T**

This writ petition is filed seeking to set aside Ext.P2. As usual the claimant did not get ready when the reference was posted for evidence and the Court also considered the matter as usual and held that there are no materials to interfere with the amount awarded by the Requisitioning Authority and passed an order accordingly. To crown all these things the claimant filed an application under Order 9 Rule 9 to set aside the order. The Apex Court as well as this Court has reiterated in so many decisions that the Land Acquisition Court has no power to dismiss a reference for default. So when such is the situation the Court below is expected to bestow its best attention to the entire facts of the case and consider with the available materials therein that whether the compensation has been awarded properly or not. A superficial consideration may not be justifiable in a land acquisition reference. Therefore, in order to meet the ends

of justice the power under Article 227 of the Constitution of India is invoked and Ext.P2 judgment/order is set aside and the Land Acquisition Court is directed to restore the reference case back to file, permitting the claimant to adduce evidence in support of his contentions as well as the Government to raise their objections if any. The question of granting interest for the period between the dismissal and restoration of this order now can be considered by the Court below and unless there is gross negligence it may be granted. The parties are directed to appear before the Court below on 1.11.07.

The writ petition is disposed of accordingly.

**M.N. KRISHNAN, JUDGE.**

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